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REMARKS

Claims 1 – 7, 9 – 14, and 16 – 18 are presently pending. In the above-identified Office Action, the Examiner rejected Claims 1 – 7, 9 – 14, and 16 – 17 under 35 U.S.C. § 103(a) as being unpatentable over Anderson (U. S. Patent 5,857,156) in view of McMullan, Jr. *et al.* (U. S. Patent No. 5,654,746). The statutory basis for the rejection of Claim 18 was not stated explicitly. Nonetheless, Applicant has assumed that Claim 18 was also rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderson (U. S. Patent 5,857,156) in view of McMullan, Jr. *et al.* (U. S. Patent No. 5,654,746).

At the outset, Applicant objects to the Examiner's steadfast refusal to respond to Applicant's arguments regarding the cited references. It appears that the Examiner is merely restating a previous position without reading or considering Applicant's arguments. For example, in Applicant's previous paper, Applicant asserted:

"In the above-identified Office Action, the Examiner suggested that the invention was obvious in view of the combination of Anderson and McMullan, Jr. *et al.* As discussed previously, Anderson purports to show a personal intercommunication purchase and fulfillment system. However, the Examiner has taken contradictory positions with respect to the teaching of Anderson. In the third paragraph on page 2 of the Office Action, the Examiner asserts that Anderson teaches an SDARS transmitter and receiver. However, in the fourth paragraph on page 2 of the Office Action, the Examiner acknowledges correctly that Anderson does not disclose an SDARS receiver. Hence, the Examiner's position is unclear. Clarification is requested.

In any event, it is clear that Anderson teaches neither an SDARS transmitter nor an SDARS receiver.

The Examiner correctly acknowledged that Anderson fails to teach third means for receiving user input while a selection of program content is being output by the receiver or fourth means for storing a data relating to the data in response to user input. In short, Anderson fails to teach or suggest any of the limitations of Claim 1. Nonetheless, the Examiner asserts that the shortcomings of Anderson are overcome by the teachings of McMullan.

McMullan purports to teach a secure authorization and control method and apparatus for a game delivery service. On page 3 of the Office Action, the Examiner discusses the teaching of McMullan at length and concludes that it would have been obvious to apply the teaching of McMullan to the communication system of Anderson in order to allow the user flexibility to retrieve the desired selection form

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a second network using removable media and to access a web site on the World Wide Web.

However, it is unclear what claim is being examined by the Examiner. (Perhaps the Examiner is examining Claim 13 instead of Claim 1.) That is, the Examiner has not stated how McMullan provides any of the teachings not taught or suggested by Anderson as set forth above. Specifically, the Examiner has not addressed where in the McMullan reference a teaching may be found with respect to: 1) an SDARS transmitter; 2) an SDARS receiver; 3) means for receiving user input while a program selection is being output by the receiver; or 4) means for storing data relating to the selection in response to the user's input." (Emphasis added.)

However, in the most recent Office Action, the Examiner failed to respond to these arguments, particularly those highlighted above. Instead, in the Response to Arguments section of the Office Action, the Examiner attempts to restate Applicant's arguments and his inability to do so accurately shows that the Examiner is being unresponsive to Applicant's arguments. That is, the Examiner summarizes Applicant's position as follows:

"Applicant's representative argues that McMullan failed to teach a transmitter and a receiver; means for receiving user input while a selection is being output by the receiver; and a satellite based distribution system."

This is obviously this statement does not accurately reflect Applicant's argument. In any case, the Examiner then suggests that:

"However, McMullan shows in figure1 [sic], a centralized source of game and digital music material that provides game data, which is transmitted via, satellite to a cable television service provider (col. 3, lines 47 - 58; col. 7, lines 18 - 35). In addition, these signals are transmitted via cable distribution plant to a subscriber (col. 5, lines 34 - 57)."

However, this position is clearly not responsive to Applicant's argument. Specifically, the Examiner has once again not addressed where in the McMullan reference a teaching may be found with respect to the shortcomings of Anderson. That is, where in McMullan is a teaching with respect to: 1) an SDARS transmitter; 2) an SDARS receiver; 3) means for receiving user input while a program selection is being

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output by the receiver; and 4) means for storing data relating to the selection in response to the user's input?

The Examiner's steadfast refusal or inability to respond to Applicant's arguments has unnecessarily protracted the prosecution of the present application. Accordingly, Applicant respectfully requests that Applicant's arguments be fully considered and that the rejections of the Claims under 35 U.S.C. § 103(a) be withdrawn. Reconsideration, allowance and passage to issue are respectfully requested.

Respectfully submitted,
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